

# HOUSE BILL REPORT

## HB 1282

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### As Passed Legislature

**Title:** An act relating to the crime of driving while license suspended where the suspension is based on noncompliance with a child support order.

**Brief Description:** Addressing the crime of driving while license suspended where the suspension is based on noncompliance with a child support order.

**Sponsors:** Representatives Zeiger, Goodman, Klippert, Orwall, Appleton, Sawyer and Gregerson.

#### **Brief History:**

##### **Committee Activity:**

Judiciary: 1/27/15, 2/5/15 [DP].

##### **Floor Activity:**

Passed House: 3/4/15, 94-3.

Passed Senate: 4/13/15, 29-18.

Passed Legislature.

#### **Brief Summary of Bill**

- Amends the crime of Driving While License Suspended in the third degree to apply to driving while a license is suspended based on failure to be in compliance with a child support order.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass. Signed by 13 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Muri, Orwall, Stokesbary and Walkinshaw.

**Staff:** Edie Adams (786-7180).

#### **Background:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Federal law requires states to have procedures for the suspension or restriction of a person's driver's license, professional and occupational license, and recreational and sporting license if the person owes past child support. Under Washington's license suspension program, the Department of Social and Health Services (DSHS) may serve an obligated parent with a notice of noncompliance if the parent fails to pay his or her support when due. By rule, the DSHS generally uses this enforcement tool when a parent is six months or more behind in child support.

In order to avoid license suspension, the parent has 20 days from the date of the notice to contact the DSHS to pay overdue amounts, enter into a payment agreement, request an adjudicative hearing, or move to modify the child support obligation. If a parent fails to come into compliance with the child support order, the DSHS may certify to the Department of Licensing (DOL) and any appropriate licensing entity that the responsible parent is not in compliance with a child support order. The DOL suspends the parent's driver's license until the DSHS provides the DOL with a release stating that the parent is in compliance with the child support order.

#### Driving While Licensed Suspended or Revoked.

It is a crime for a person to drive a motor vehicle in this state while that person's privilege to drive is suspended or revoked. There are three degrees of the crime of Driving While License Suspended or Revoked (DWLS), which are dependent on the reason the person's license was suspended or revoked.

First degree DWLS is a gross misdemeanor offense and involves driving when an order of license revocation is in effect for being a habitual traffic offender. Second degree DWLS, also a gross misdemeanor offense, generally involves driving when the person's license is suspended or revoked based on a conviction of any of a number of relatively serious traffic offenses or based on administrative action taken by the DOL.

Third degree DWLS (DWLS 3) is a misdemeanor offense and generally involves driving after a license is suspended or revoked for secondary reasons where there is no set suspension period, such as: (1) failure to respond to a notice of traffic infraction; (2) failure to appear at a requested hearing; (3) violation of a written promise to appear in court; or (4) failure to comply with the terms of a notice of traffic infraction or citation, in addition to a variety of other behaviors. The crime of DWLS 3 does not list a suspension based on failure to be in compliance with a child support order as a basis for committing the third-degree offense.

#### **Summary of Bill:**

The crime of DWLS 3 is amended to apply to driving while a license is suspended based on failure to be in compliance with a child support order.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) There is ambiguity in the DWLS law that needs to be clarified; DWLS based on failure to pay child support is not specifically listed under the third degree offense, and cases are being dismissed. Police officers do not know the basis of the suspension when they are issuing the citation, so when these cases end up being dismissed by the courts it results in a waste of time and resources. Second degree DWLS does cover DOL administrative suspensions, but the second degree offense results in a hard license suspension of one year. That is not how the child support suspension is supposed to work.

These cases are currently programmed as third degree suspensions. Under third degree DWLS, the suspension is lifted once the obligation has been fulfilled. This is the appropriate charge in the case of suspensions based on failure to pay child support. This legislation corrects the law to comport with the legislative intent of the license suspension program, which is to create a strong incentive for people to pay their child support obligations. If the ambiguity is not fixed, either there will be no enforcement mechanism, or people will have their licenses suspended for a year, even if they pay off their child support obligations.

(Opposed) The intent of the license suspension law was to comply with a federal mandate under federal welfare reform to avoid the loss of federal funds. This bill is unnecessary. The current DWLS law cross references administrative suspensions by the DOL, which include suspensions based on failure to pay child support, so these cases can be charged under the second degree offense. The language in the current bill is inelegant. If you want to repeat all of the reasons for administrative suspensions under DWLS 2 in DWLS 3 that would be fine. At the end of the day, DWLS 3 is the crime of driving while poor. We suspend licenses of people for failure to pay fines and then take away their ability to get to work to pay the fines.

**Persons Testifying:** (In support) Representative Zeiger, prime sponsor; Doug Levy, Cities of Puyallup and Redmond; Terra Evans, City of Puyallup; Bryan Jeter, Puyallup Police Department; Larry Mitchell, City of Redmond; James McMahan, Sheriffs and Police Chiefs; and Tony Sermonti, Department of Licensing.

(Opposed) Bob Cooper, Washington Defender Association and Washington Association of Criminal Defense Lawyers.

**Persons Signed In To Testify But Not Testifying:** None.